

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECORDED

MAY 28 1998

In the Matter of)

Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION

Milwaukee Area Technical College District Board ("MATC"), licensee of public television Stations WMVS on Channel 10 and WMVT on Channel 36, Milwaukee, Wisconsin, through its attorneys, files herewith its Reply to the Opposition to MATC's Petition for Partial Reconsideration in the above-referenced DTV proceedings, filed by Jovon Broadcasting Corporation ("Jovon"). In support thereof, the following is shown:

1. In its reconsideration request, MATC has urged the Commission to remedy the disparity and inequity in its treatment of NTSC applications for new and for modified facilities pending as of April 3, 1997. In particular, MATC stressed that on June 10, 1994, well before the adoption of the initial DTV Table, MATC filed an application for minor modification of the facilities of its public television Station WMVT on Channel 36 to include relocation to a new tower owned by MATC, with 343 meters HAAT and a directional ERP of 4,770 kW (File No. BPET-940610KE). The parameters of this pending application were not considered by the Commission when pairing MATC's NTSC Channel 36 with its DTV Channel 35.

2. In its Memorandum Opinion and Order, par. 136, on reconsideration of the Sixth Report and Order in this DTV proceeding, the Commission refused requests for

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such full DTV replication of the facilities requested in the pending modification application. In contrast, however, the Commission determined that applications for new NTSC facilities pending as of April 3, 1997 would be granted, with permittees afforded the additional benefit of choosing whether to construct as a digital station or as an analog station with conversion to DTV on that channel. See Memorandum Opinion and Order, pars. 10-13, on reconsideration of the Fifth Report and Order in the DTV proceeding. MATC has strenuously argued that the NTSC applications pending as of April 3, 1997, whether for new facilities or for modification of facilities, should be treated similarly, in order to achieve an even-handed and objective basis for Commission processing of these two groups of applications. MATC's modification application was filed in June 1994, nearly three years in advance of the date the Commission utilized for its engineering database for the DTV Table. Its application was in full technical compliance with the Commission's rules. Under normal Commission processing, grant of such an application should have occurred in 1994 or 1995, and MATC did nothing to delay the processing of its application. MATC also has a pending PTFP application, filed February 12, 1998 for federal matching funds for this modification, and grant of this application would substantially improve MATC's NTSC operations on Station WMVT. Furthermore, this modification would and should properly augment its engineering database for determination of appropriate service replication for its DTV facilities of the future on DTV Channel 35.

3. Jovon is licensee of commercial television Station WJYS, Channel 62, Hammond, Indiana, which has been allotted DTV Channel 36 at Hammond. Jovon had

filed a Petition for Reconsideration in the DTV proceeding, seeking a new DTV channel allotment that would allow the relocation of Station WJYS' DTV antenna to the Sears and John Hancock Buildings. This request was denied, and Jovon has a pending appeal of that action before the United States Court of Appeals for the D.C. Circuit.

4. MATC has no objection to, and supports, a reassignment of Station WJYS' DTV service to a DTV channel other than Channel 36, as proposed by Jovon. Such a reassignment would be beneficial to MATC's NTSC operations on Channel 36 during the transition period. Furthermore, such a reassignment of the DTV channel for Station WJYS would serve to resolve interference concerns relating to MATC's NTSC operations on Channel 36.

5. However, Jovon's Opposition fails to address the prime thrust of MATC's Petition for Partial Reconsideration, which urges that modification proposals, such as MATC's application, which were pending as of April 3, 1997, should have been considered by the Commission when determining service replication of DTV allotments. As such, MATC's modification application, pending since 1994, would in effect be protected as much as technically feasible in the Commission's assessment of area DTV channel allotments. The specifications set forth in that modification application by MATC would also be taken into account in determining area DTV allotments, including the appropriate channel and replicated service area for Station WJYS. The hope and expectation would be that all area broadcasters, including MATC with a replicated

service area commensurate with its modification proposal and Station WJYS at Hammond, would secure DTV allotments which would permit maximum replication of service as outlined in license, permit or modification application pending as of April 3, 1997.¹

Respectfully submitted,

MILWAUKEE AREA TECHNICAL COLLEGE
DISTRICT BOARD

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¹ On page 4 of its Opposition, Jovon claims that MATC's relocated "site was chosen with an eye toward expanding coverage in the direction of Chicago through the Kenosha suburban corridor". This contention is incorrect. MATC's site was chosen to collocate all Milwaukee public television services on a new tower and to more closely replicate the coverage area of the MATC's full-power public television Station WMVS, Channel 10, transmission which is already serving northern Illinois viewers in the area of concern.

CERTIFICATE OF SERVICE

I, Nancy M. Cassady, Secretary in the law offices of Schwartz, Woods & Miller, hereby certify that I have on this 28th day of May, 1998, sent by First Class United States mail, postage prepaid, copies of the foregoing **REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION** to

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